

AMENDMENT TO H.R. 7**OFFERED BY MR. CUMMINGS OF MARYLAND, MS.****EDDIE BERNICE JOHNSON OF TEXAS, MS.****BROWN OF FLORIDA, MS. RICHARDSON OF****CALIFORNIA, MS. EDWARDS OF MARYLAND,****AND MS. NORTON OF DISTRICT OF COLUMBIA**

In section 1101(c) after paragraph (1)(B) of the bill, insert the following (and redesignate any subsequent paragraphs accordingly):

1 (2) PURPOSE.—It is the purpose of the dis-
2 advantaged business enterprise program to ensure
3 that minority- and women-owned businesses have a
4 full and fair opportunity to compete in projects and
5 contracts receiving Federal assistance under titles I,
6 II, and VII of this Act and section 403(a) of title
7 23, United States Code, and to ensure that the Fed-
8 eral Government does not subsidize discrimination in
9 private or locally funded surface transportation-re-
10 lated industries

11 (3) FINDINGS.—Congress finds the following:

12 (A) While significant progress has occurred
13 due to the enactment of the disadvantaged busi-
14 ness enterprise program, discrimination con-

1 continues to be a significant barrier for minority-
2 and women-owned businesses seeking to do
3 business in federally-assisted surface transpor-
4 tation markets. This continuing discrimination
5 merits the continuation of the disadvantaged
6 business enterprise program.

7 (B) Discrimination poses serious barriers
8 to the full participation of women business own-
9 ers and minority business owners, including Af-
10 rican Americans, Hispanic Americans, Asian
11 Americans, and Native Americans in federally-
12 assisted surface transportation projects and
13 contracts.

14 (C) Discrimination impacts minority and
15 women business owners in every geographic re-
16 gion of the United States and throughout sur-
17 face transportation-related industries.

18 (D) Discrimination has impacted many as-
19 pects of surface transportation-related business,
20 including—

21 (i) the availability of venture capital
22 and credit;

23 (ii) the availability of bonding and in-
24 surance;

1 (iii) the ability to obtain licensing and
2 certification;

3 (iv) public and private bidding and
4 quoting procedures;

5 (v) the pricing of supplies and serv-
6 ices;

7 (vi) business training, education, and
8 apprenticeship programs; and

9 (vii) professional support organiza-
10 tions and informal networks through which
11 business opportunities are often estab-
12 lished.

13 (E) Congress has received voluminous evi-
14 dence of discrimination against minority and
15 women business owners in surface transpor-
16 tation-related industries, including—

17 (i) statistical analyses demonstrating
18 significant disparities in the utilization of
19 minority- and women-owned businesses in
20 federally and locally funded surface trans-
21 portation-related contracting;

22 (ii) statistical analyses of private sec-
23 tor disparities in business success by
24 minority- and women-owned businesses in
25 surface transportation-related industries;

1 (iii) research compiling anecdotal re-
2 ports of discrimination by individual mi-
3 nority and women business owners;

4 (iv) individual reports of discrimina-
5 tion by minority and women business own-
6 ers and the organizations and individuals
7 who represent minority and women busi-
8 ness owners;

9 (v) analyses demonstrating significant
10 reductions in the participation of minority
11 and women businesses in jurisdictions that
12 have reduced or eliminated their minority-
13 and women-owned business programs;

14 (vi) statistical analyses showing sig-
15 nificant disparities in the credit available
16 to minority- and women-owned businesses;

17 (vii) research and statistical analyses
18 demonstrating how discrimination nega-
19 tively impacts firm formation, growth, and
20 success;

21 (viii) experience of State departments
22 of transportation, public transit agencies,
23 metropolitan planning organizations, and
24 other localities demonstrating that race-

1 and gender-neutral efforts alone are insuf-
2 ficient to remedy discrimination; and
3 (ix) other qualitative and quantitative
4 evidence of discrimination against
5 minority- and women-owned businesses in
6 surface transportation-related industries.

7 (F) All of this evidence provides a strong
8 basis for the continuation of the disadvantaged
9 business enterprise program. neutral efforts
10 alone are insufficient to remedy discrimination.

11 (G) Congress has received and reviewed re-
12 cent comprehensive and compelling evidence of
13 discrimination from many different sources, in-
14 cluding congressional hearings and roundtables,
15 scientific reports, reports issued by public and
16 private agencies, news stories, reports of dis-
17 crimination by organizations and individuals,
18 and discrimination lawsuits.

At the end of section 1101(c) of the bill, insert the
following:

19 (9) PERSONAL NET WORTH CAP.—Beginning on
20 June 13, 2013, and each year thereafter, the Sec-
21 retary shall adjust the personal net worth cap used
22 in determining whether an individual is economically
23 disadvantaged for purposes of qualifying under the

1 definition contained in subsection (k)(1) of this sec-
2 tion and section 26.67 of title 49, Code of Federal
3 Regulations to account for changes, occurring in the
4 preceding 12-month period, in the Consumer Price
5 Index of All Urban Consumers (United States city
6 average, all items) published by the Secretary of
7 Labor.

8 (10) PROHIBITION ON EXCESSIVE OR DISCRIMI-
9 NATORY BONDING REQUIREMENTS.—

10 (A) IN GENERAL.—The Secretary shall es-
11 tablish a program to eliminate barriers to small
12 business participation in Federally-assisted sur-
13 face transportation contracts by prohibiting ex-
14 cessive, unreasonable, or discriminatory bonding
15 requirements for any project funded under titles
16 I, II, and VII of this Act, or section 403(a) of
17 title 23, United States Code.

18 (B) REGULATIONS.—Not later than one
19 year after the date of enactment of this sub-
20 section, the Secretary shall issue a final rule to
21 establish the program under subparagraph (A).

22 (11) TRAINING PROGRAM FOR CERTIFICATION
23 OF DISADVANTAGED BUSINESS ENTERPRISES.—

24 (A) IN GENERAL.—Not later than one year
25 after the date of enactment of this Act, the Sec-

1 retary shall establish a mandatory training pro-
2 gram for persons described in subparagraph (C)
3 on certifying whether a small business concern
4 qualifies as a small business concern owned and
5 controlled by socially and economically dis-
6 advantaged individuals under this section.

7 (B) IMPLEMENTATION.—The training pro-
8 gram may be implemented by one or more pri-
9 vate entities approved by the Secretary.

10 (C) PARTICIPANTS.—A person referred to
11 in paragraph (1) is an official or agent of a
12 State department of transportation——

13 (i) who is required to provide a writ-
14 ten assurance under this section that the
15 State department of transportation will
16 meet the percentage goal of subsection (c);
17 or

18 (ii) who is responsible for determining
19 whether or not a small business concern
20 qualifies as a small business concern owned
21 and controlled by socially and economically
22 disadvantaged individuals under this sec-
23 tion.

24 (D) FUNDING.—The Secretary may use
25 funds made available under section 104(a)(1) of

1 title 23, United States Code, in each of fiscal
2 years 2013 through 2016 to carry out this sub-
3 section and to support other programs and ac-
4 tivities of the Secretary related to the participa-
5 tion of small business concerns owned and con-
6 trolled by socially and economically disadvan-
7 tagged individuals in surface transportation-re-
8 lated contracts.

9 (E) REPORT.—Not later than 24 months
10 after the date of enactment of this Act, the Sec-
11 retary shall submit to the Committee on Trans-
12 portation and Infrastructure of the House of
13 Representatives and Committee on Commerce,
14 Science, and Transportation of the Senate a re-
15 port on the results of the training program con-
16 ducted under subparagraph (A).

